

RESOLUTION NO. 2007-59

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LODI
ESTABLISHING COMMUNITY FACILITIES DISTRICT NO. 2007-1 (PUBLIC
SERVICES), AND CALLING AN ELECTION FOR THE PURPOSE OF
SUBMITTING THE LEVY OF THE SPECIAL TAX AND THE ESTABLISHMENT
OF AN APPROPRIATIONS LIMIT TO THE QUALIFIED ELECTORS OF THE
PROPOSED COMMUNITY FACILITIES DISTRICT

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WHEREAS, the City Council, on February 21, 2007, adopted its Resolution No. 2007-33 (the "Resolution of Intention") (i) declaring its intention to establish Community Facilities District No. 2007-1 (Public Services) (the "CFD") pursuant to the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5, Part 1, Division 2, Title 5 (commencing with Section 53311) of the California Government Code) (the "Act"), (ii) proposing to levy a special tax therein for the purpose of providing for the financing of certain services (the "Services") described in Exhibit A hereto, and (iii) calling a public hearing on the establishment of the CFD; and

WHEREAS, before the time for the hearing, as directed in the Resolution of Intention, the City Engineer filed with the City Council the report required by California Government Code Section 53321.5 (the "Community Facilities District Report"); and

WHEREAS, a notice of the hearing was duly published as required by the Act, as evidenced by the affidavit of publication on file with the City Clerk; and

WHEREAS, pursuant to the Act and the Resolution of Intention, a noticed public hearing was convened by the Council on April 4, 2007, not earlier than the hour of 7:00 p.m. at the Carnegie Forum, 305 West Pine Street, Lodi, California, relative to the establishment of the CFD; and

WHEREAS, at the hearing, the testimony of all interested persons, including all taxpayers, property owners, and registered voters within the CFD, desiring to be heard on the establishment of the CFD, the extent thereof, the furnishing of specified types of services, the proposed special tax, the establishment of an appropriations limit for the CFD, or any other matters set forth in the Resolution of Intention was heard and a full and fair hearing was conducted thereon; and

WHEREAS, written protests against the establishment of the CFD, the furnishing of specified type or types of services in the CFD as listed in the Community Facilities District Report, or the levying of the special tax have not been filed by six registered voters residing within the territory proposed to be included in the CFD or by the owners of one-half or more of the area of land in the territory proposed to be included in the CFD and not exempt from this special tax; and

WHEREAS, on the basis of all of the foregoing, the City Council has determined at this time to establish the CFD and to submit to the qualified electors of the CFD the levy of the special tax therein (as such tax is more particularly described in Exhibit B hereto) and the establishment of an appropriations limit for the CFD; and

WHEREAS, the San Joaquin County Registrar of Voters has certified that fewer than 12 persons were registered to vote within the territory of the CFD as of February 14, 2007, which date is within the 90-day period preceding the close of the hearing; and

WHEREAS, the City Council has received a written instrument from each landowner in the CFD consenting to the shortening of election time requirements, waiving analysis and arguments, and waiving all notice requirements relating to the conduct of the election; and

WHEREAS, the City Clerk has concurred in the election date set forth herein.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lodi, that:

1. Recitals. The foregoing recitals are true and correct.
2. Community Facilities District Report. The City Council hereby makes the Community Facilities District Report a part of the record of the hearing.
3. No Majority Protest. The proposed special tax to be levied in the CFD has not been precluded by majority protest pursuant to Section 53324 of the Act.
4. Establishment of CFD. As proposed in the Resolution of Intention, a community facilities district is hereby established pursuant to the Act, designated "Community Facilities District No. 2007-1 (Public Services)."
5. Finding of Procedural Regularity. The City Council finds and determines that all prior proceedings had and taken by the City Council with respect to the formation of the CFD are valid and in conformity with requirements of the Act.
6. Boundaries of CFD. The boundaries of the CFD shall be as set forth in the map entitled Map of Proposed Boundaries, Community Facilities District No. 2007-1 (Public Services) that was filed with the San Joaquin County Recorder on March 2, 2007, in Book 5 of Assessment Maps, at Page 156 less the property described in Exhibit D attached hereto. The City Council hereby directs City staff to prepare and file an amended map of the boundaries of the CFD to reflect the exclusion of such property with the County Recorder.
7. Description of Services. The Services to be financed by the CFD are set forth in Exhibit A hereto. The Services authorized to be financed by the CFD are in addition to those provided in the territory of the CFD and do not supplant Services already available within that territory.
8. Special Tax. As stated in the Resolution of Intention, except where funds are otherwise available, subject to the approval of the qualified electors of the CFD, a special tax sufficient to pay the costs of the Services (including incidental expenses as described in the Resolution of Intention), secured by recordation of a continuing lien against all nonexempt real property in the CFD, will be levied annually in the CFD. The rate, method of apportionment, and manner of collection of the special tax are specified in Exhibit B hereto.
9. Apportionment of Tax. The special tax as apportioned to each parcel is based on the cost of making the Services available to each parcel, or other reasonable basis, and is not based on or upon the ownership of real property.

10. Tax Roll Preparation. The office of the Finance Manager/Assistant City Treasurer, 300 West Pine Street, Lodi, California 95240, telephone (209) 333-6700, is hereby designated as the office that will be responsible for annually preparing a current roll of special tax levy obligations by assessor's parcel number and that will be responsible for estimating future special tax levies pursuant to Government Code Section 53340.2. The Finance Manager/Assistant City Treasurer may cause these functions to be performed by his or her deputies, assistants, or other designated agents.

11. Appropriations Limit. The City Council proposes that the appropriations limit, as defined by Article XIII B, Section 8(h), of the Constitution of the State of California, for the CFD be established in the amount of special taxes collected.

12. Accountability Measures. Pursuant to Section 50075.1 of the California Government Code, the City shall create a separate account into which tax proceeds will be deposited; and the Finance Manager/Assistant City Treasurer annually shall file a report with the City Council that will state (a) the amount of funds collected and expended and (b) the status of the Services financed in the CFD.

13. Special Election; Voting Procedures. The City Council hereby submits the questions of levying the special tax and the establishment of the annual appropriations limit for the CFD to the qualified electors within the CFD, in accordance with and subject to the Act. The special election shall be held on April 11, 2007, and shall be conducted as follows:

(a) Qualified Electors. The City Council hereby determines that the Services are necessary to meet increased demands placed upon the City as a result of development occurring within the boundaries of the CFD. Because fewer than 12 registered voters resided within the CFD on February 14, 2007 (a date within the 90 days preceding the close of the public hearing on the establishment of the CFD), the qualified electors shall be the landowners within the CFD, and each landowner who was the owner of record at the close of the hearing shall have one vote for each acre or portion of an acre of land that such landowner owns within the CFD.

(b) Consolidation of Elections; Combination of Propositions on Ballot. The elections on the questions of levying the special tax and establishing an appropriations limit for the CFD shall be consolidated, and the two propositions shall be combined into a single ballot proposition for submission to the voters, as authorized by Government Code Section 53353.5.

(c) Mail Ballot Election. Pursuant to Government Code Section 53327.5, the election shall be conducted as a mail ballot election. The City Council hereby ratifies the City Clerk's delivery of a ballot to each landowner in the CFD. The City Council hereby ratifies the form of the ballot, which is attached hereto as Exhibit C.

(d) Return of Ballots. The City Clerk shall accept the ballots of the landowners up to 4:00 p.m. on April 11, 2007. The City Clerk shall have available ballots that may be marked at the City Clerk's office on the election day by voters. Once all qualified electors have voted, the City Clerk may close the election.

(e) Canvass of Election. The City Clerk shall commence the canvass of the returns of the special election when the election is closed, or as soon thereafter as possible, at the City Clerk's Office. At the conclusion of the canvass, the City Clerk shall declare the results of the election.

(f) Declaration of Results. The City Council shall declare the results of the special election following the completion of the canvass of the returns and shall cause to be inserted into its minutes a statement of the results of the special election as ascertained by the canvass of the returns.

14. Filing of Resolution and Map with City Clerk. The City Council hereby directs the City Clerk to file a copy of this resolution and the amended map of the boundaries of the CFD in her office.

15. Lien to Secure Special Tax. Upon a determination by the City Council that two-thirds of the votes cast upon the question of levying the special tax were in favor thereof, the City Clerk shall record the notice of special tax lien provided for in Section 3114.5 of the California Streets and Highways Code. Upon recordation of the notice of special tax lien, a continuing lien to secure each levy of the special tax shall attach to all nonexempt real property in the CFD, and this lien shall continue in force and effect until collection of the tax by the City Council ceases.

16. CEQA Exemption. The Council hereby determines that the formation of the proposed CFD is not a project pursuant to the California Environmental Quality Guidelines Section 15378(b)(4), and authorizes the City Clerk to file a notice of exemption with the County Clerk to that effect.

Dated: April 4, 2007

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I hereby certify that Resolution No. 2007-59 was passed and adopted by the City Council of the City of Lodi at a regular meeting held on April 4, 2007, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Hitchcock, Katzakian, Mounce, and Mayor Johnson

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None


RANDI JOHL
City Clerk

2007-59

EXHIBIT A
CITY OF LODI
COMMUNITY FACILITIES DISTRICT NO. 2007-1
(PUBLIC SERVICES)
List of Authorized Services

(a) Police protection services, including, but not limited to, criminal justice services. However, criminal justice services shall be limited to providing services for jails, detention facilities, and juvenile halls.

(b) Fire protection and suppression services, and ambulance and paramedic services.

(c) Maintenance of parks, parkways, and open space.

(d) Flood and storm protection services, including, but not limited to, the operation and maintenance of storm drainage systems, and sandstorm protection systems.

(e) Services with respect to removal or remedial action for the cleanup of any hazardous substance released or threatened to be released into the environment.

EXHIBIT B

CITY OF LODI COMMUNITY FACILITIES DISTRICT NO. 2007-1 (Public Services) RATE AND METHOD OF APPORTIONMENT AND MANNER OF COLLECTION OF SPECIAL TAX

A Special Tax applicable to each Assessor's Parcel in Community Facilities District No. 2007-1 (Public Services) shall be levied and collected according to the tax liability determined by the City Council acting in its capacity as the legislative body of CFD No. 2007-1, through the application of the appropriate Special Tax rate, as described below. All of the property in the CFD, unless exempted by law or by the provisions of Section E below, shall be taxed for the purposes, to the extent, and in the manner herein provided, including property subsequently annexed to the CFD unless a separate RMA is adopted for the annexation area.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

"Accessory Dwelling Unit" means a second residential unit of limited size (i.e., granny cottage, second unit) that shares a Parcel with a Single Family Unit.

"Administrative Expenses" means any or all of the following: the expenses of the City in carrying out its duties for the CFD, including, but not limited to, the levy and collection of the Special Tax, the fees and expenses of its counsel, charges levied by the County, and all other costs and expenses of the City in any way related to the establishment or administration of the CFD.

"Administrator" means the person(s) or firm designated by the City to administer the Special Taxes according to this RMA.

"Assessor's Parcel" or **"Parcel"** means a lot or parcel shown in an Assessor's Parcel Map with an assigned Assessor's Parcel number.

"Assessor's Parcel Map" means an official map of the County Assessor designating parcels by Assessor's Parcel number.

"Authorized Services" means the public services authorized to be funded by the CFD as set forth in the documents adopted by the City Council when the CFD was formed.

"CFD No. 2007-1" or **"CFD"** means the City of Lodi Community Facilities District No. 2007-1 (Public Services).

"City" means the City of Lodi.

"City Council" means the City Council of the City of Lodi.

"County" means the County of San Joaquin.

"Fiscal Year" means the period starting on July 1 and ending on the following June 30.

"Maximum Special Tax" means the maximum Special Taxes determined in accordance with Section C below that can be levied on Single Family Property and Multi-Family Property in any Fiscal Year.

"Multi-Family Property" means, in any Fiscal Year, all Parcels in the CFD for which final building permit inspections were conducted prior to January 1 of the preceding Fiscal Year, but not prior to January 1, 2007, for construction of Multi-Family Units.

"Multi-Family Unit" means an individual residential unit within a structure with three or more residential units that share a single Assessor's Parcel number, all of which are offered for rent to the general public and cannot be purchased by individual homebuyers. Residential units located above commercial establishments that are available exclusively for rent and cannot be purchased by individual owners shall also be characterized as Multi-Family Units for purposes of this RMA.

"RMA" means this Rate and Method of Apportionment.

"Single Family Property" means, in any Fiscal Year, all Parcels in the CFD for which final building permit inspections were conducted prior to January 1 of the preceding Fiscal Year, but not prior to January 1, 2007, for construction of Single Family Units.

"Single Family Unit" means an individual single family detached residential unit or an individual residential unit within a half-plex, duplex, triplex, fourplex, townhome, condominium, or other structure with attached residential units that are available for sale to individual buyers, whether or not such a unit is ultimately offered for rent by an individual buyer. For-sale residential units located above commercial establishments shall also be categorized as Single Family Units for purposes of this RMA.

"Special Tax" means any tax levied within the CFD to pay the Special Tax Requirement.

"Special Tax Requirement" means the amount of revenue needed in any Fiscal Year to pay for the following: (i) Authorized Services, (ii) Administrative Expenses, and (iii) amounts needed to cure any delinquencies in the payment of Special Taxes which have occurred or, based on delinquency rates in prior years, may be expected to occur in the Fiscal Year in which the tax will be collected.

"Taxable Property" means both Single Family Property and Multi-Family Property.

B. DATA FOR ANNUAL TAX LEVY

Each Fiscal Year, the Administrator shall identify the current Assessor's Parcel number for all Parcels of Taxable Property within the CFD. The Administrator shall also determine the number of Single Family and Multi-Family Units built or to be built on each Parcel of Taxable Property by referencing the building permit, condominium plan, apartment plan, site plan, or other development plan for the property.

In any Fiscal Year, if it is determined that (i) a parcel map for a portion of property in the CFD was recorded after January 1 of the preceding Fiscal Year (or any other date after which the Assessor will not incorporate the newly-created Parcels into the then current tax roll), (ii) because of the date the parcel map was recorded, the Assessor does not yet recognize the new

Parcels created by the parcel map, and (iii) one or more of the newly-created Parcels meets the definition of Taxable Property, the Administrator shall calculate the Special Tax for the property affected by recordation of the parcel map by determining the Special Tax that applies separately to each Parcel of Taxable Property, then applying the sum of the individual Special Taxes to the original Parcel that was subdivided by recordation of the parcel map.

C. MAXIMUM SPECIAL TAX

The Maximum Special Tax for all Parcels of Taxable Property within the CFD shall be \$600 per Single Family Unit and \$175 per Multi Family Unit for Fiscal Year 2007-08. Beginning July 1, 2008 and each July 1 thereafter, the Maximum Special Tax in effect in the prior Fiscal Year shall be increased by the greater of (i) the increase, if any, in the Local Consumer Price Index for the San Francisco-Oakland-San Jose Area for All Urban Consumers, or (ii) five percent (5%).

D. METHOD OF LEVY AND COLLECTION OF SPECIAL TAX

Each Fiscal Year, the Special Tax shall be levied proportionately on each Parcel of Taxable Property in the CFD up to 100% of the Maximum Special Tax determined pursuant to Section C above until the total amount levied is equal to the Special Tax Requirement for the Fiscal Year. The Special Tax for the CFD shall be collected at the same time and in the same manner as ordinary ad valorem property taxes provided, however, that the City may (under the authority of Government Code Section 53340) collect Special Taxes at a different time or in a different manner if necessary to meet CFD No. 2007-1 financial obligations, and the Special Tax shall be equally subject to foreclosure if delinquent.

E. LIMITATIONS

Notwithstanding any other provision of this RMA, no Special Tax shall be levied on Parcels within the CFD that are not Single Family Property or Multi-Family Property. Furthermore, Accessory Dwelling Units shall not be counted in determining the Special Tax to be levied on the Parcels on which such units are located.

F. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning Special Taxes. In addition, the interpretation and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this RMA.

EXHIBIT C
OFFICIAL BALLOT
SPECIAL TAX ELECTION
CITY OF LODI
INCLUSION OF TERRITORY IN
COMMUNITY FACILITIES DISTRICT
NO. 2007-1 (PUBLIC SERVICES)
(April 11, 2007)

Number of votes entitled to cast: _____

INSTRUCTIONS TO VOTERS: To vote on the measure, mark an (X) in the voting square after the word "YES" or after the word "NO." All marks otherwise made are forbidden. All distinguishing marks are forbidden and make the ballot void.

If you wrongly mark, tear or deface this ballot, return it to the City Clerk, City of Lodi, 221 W. Pine Street, 2nd Floor, Lodi, California 95240, to obtain another.

MEASURE SUBMITTED TO QUALIFIED ELECTORS

Ballot Measure: Shall the City of Lodi be authorized to levy a special tax at the rates and apportioned as described in Exhibit C to the Resolution Declaring its Intention to Establish Community Facilities District No. 2007-1 (Public Services) adopted by the City Council on February 21, 2007 (the "Resolution"), which is incorporated herein by this reference, within the territory identified on the map entitled "Amended Map of Community Facilities District No. 2007-1 (Public Services), City of Lodi, County of San Joaquin," to finance certain services as set forth in Section 5 to the Resolution (including incidental expenses), and shall an appropriation limit be established for the CFD in the amount of special taxes collected?	YES <input type="checkbox"/>
	NO <input type="checkbox"/>

NOTE: This is a special landowner election. You must return this ballot to the City Clerk, City of Lodi, to her office at City Hall, 221 W. Pine Street, Lodi, California 95240, by 4:00 p.m. on April 11, 2007.

EXHIBIT D
EXCLUDED PROPERTY

APN	LANDOWNER	ACRES	TOTAL FOR LANDOWNER
058-130-17	BRIJ DEV SINGH BISLA AND SURRENDER KAUR BISLA	5.53	5.53
058-130-24	DIANE Y. TSUTSUMI, AN UNMARRIED WOMAN, AS TO UNDIVIDED 40% INTEREST; GARY T. TSUTSUMI, A MARRIED MAN AS HIS SOLE AND SEPARATE PROPERTY, AS TO AN UNDIVIDED 40% INTEREST; AND AGNES M. TSUTSUMI, TRUSTEE OF THE SURVIVOR'S TRUST (TRUST A) CREATED UNDER THE TSUTSUMI FAMILY 1990 TRUST AS TO AN UNDIVIDED 20% INTEREST; ALL TOGETHER AS TENANTS IN COMMON.	12.56	12.56
	Total	18.09	18.09